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10/699,399	10/30/2003	Supratik Guha	YOR920030425US1	3291
23334 7590 11/21/2008 FLETT GIBBONS GUTMAN BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487				
EXAMINER JAGAN, MIRELLY'S				
ART UNIT 2855		PAPER NUMBER		
NOTIFICATION DATE 11/21/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: SUPRATIK GUHA, HENDRIK F. HAMANN,
JAMES A. LACEY, MAURICE MCGLASHAN-POWELL,
MARTIN P. O'BOYLE, and ROBERT J. VON GUTFELD

Application No. 10/699,399
Technology Center 2800

Mailed: 20 November 2008

Before LAWRENCE BANKS *Paralegal Specialist*
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Supplemental Appeal Brief filed February 25, 2008, under the heading "Grounds of rejection to be reviewed on appeal" is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 3, 4, 7, 9, 10, 15, 16, 19, 21-22 and 29-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,140,141 to Davidson in view of U.S. Patent 6,251,706 to Paniccia. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson and Paniccia, as applied to claims 3, 4, 7, 9, 10, and 29, and further in view of U.S. Patent 5,349,499 to Yamada. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson and Paniccia, as applied to claims 15, 16, 19, 21-22 and 30, and further in view of U.S. Patent 5,349,499 to Yamada; whereas Appellant(s) have either not indicated the grounds of rejection of these claims or has improperly listed these claims as 4, 7 and 29 are anticipated under 35 U.S.C. § 102(b) and claims 3, 9, 10, 15, 16, 19-22 and 30 are rejected under 35 U.S.C. § 103(a) over Davidson in view of Paniccia. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on February 25, 2008, defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487